

**Family Law Information Centre
Court Procedure Booklet #26**

**Review of an Emergency
Protection Order**

The Family Law Information Centre and Queen's Bench Chambers Office cannot give you legal advice or financial guidance, and cannot predict the outcome of court decisions.

This booklet provides general information only. You should speak to a lawyer for legal advice about your own situation.

The Court Procedure Booklets listed on the inside cover of this booklet are available electronically at ***www.albertacourts.ab.ca***.

The Court Procedure Booklets are available for sale from Queen's Printer Bookstore by phoning (780) 427-4952 in Edmonton, or (403) 297-6251 in Calgary, or by phoning 310-0000 toll-free from anywhere in Alberta and asking for either of these phone numbers, or by accessing the Queen's Printer website at ***www.gov.ab.ca/qp***.



077328902X

Family Law Information Centres

The Family Law Information Centres can provide information about:

- the Federal Child Support Guidelines,
- how to calculate child support,
- how to apply for or change a Child Support Order,
- how to oppose an application that involves child support, and
- the procedures that must be followed in other family law matters, such as spousal support and child custody.

Family Law Information Centres can be found at the following locations:

Family Law Information Centre, Edmonton

Law Courts Building
1A Sir Winston Churchill Square
Edmonton, Alberta, T5J 0R2
Tel: 780-415-0404
Fax: 780-415-0403

Family Law Information Centre, Calgary

Court House Annex
603 - 6th Avenue SW
Calgary, Alberta, T2P 0T3
Tel: 403-297-6600
Fax: 403-297-6605

Family Law Information Centre Court Procedure Booklets

Restraining or Protection Orders

Applying for a Restraining Order Without Notice

Applying for a Protection Order on Notice

Review of an Emergency Protection Order

General

Opposing an Application that Does Not Involve Child Support

Applying for a Consent Order that Does Not Include Child Support

Transferring Your Court File

General Family Law Application

Applications Dealing With Child Support Or Arrears

If your application deals with child support or arrears, you should read the booklet "Information for Unrepresented Parties about Child Support Matters" before reading the appropriate procedure booklets below.

Child Support — when both parties live in Alberta

Obtaining Income Information from the Other Party for Child Support Applications

Applying for an Order for Child Support

Changing an Existing Order for Child Support

Decreasing Child Support, Reducing or Cancelling Arrears, and Stay of Enforcement

Reducing or Cancelling Arrears and Stay of Enforcement (where there is no change to ongoing support)

Applying for an Order for Child Support Under the Parentage and Maintenance Act

Applying for a Consent Order that Includes Child Support

Opposing an Application that Involves Child Support

Child Support — when the respondent lives outside Alberta

Provisional Application to Change an Order for Child Support - Divorce Act

Spousal Support

Applying for an Order for Spousal Support

Changing an Existing Order for Spousal Support

Custody and Access

Applying for an Order for Custody and/or Access

Changing an Existing Order for Custody and/or Access

Combination Applications

Applying for an Order for Child Support and Custody and/or Access

Changing an Existing Order for Child Support and Custody and/or Access

Applying for an Order for Child Support and Spousal Support

Changing an Existing Order for Child Support and Spousal Support

Applying for an Order for Child Support, Spousal Support and Custody and/or Access

Changing an Existing Order for Child Support, Spousal Support and Custody and/or Access

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Review of an Emergency Protection Order

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About this Booklet

This booklet assumes that an Emergency Protection Order has been obtained, either with the help of the police, or by one of the family members in provincial court. The Emergency Protection Order must be scheduled for a review by the Court of Queen's Bench within seven working days of the granting of the Order. You have been provided with the review date.

If you are the person being protected by the Emergency Protection Order (the claimant), you may receive legal assistance with the review by contacting the Edmonton Protection and Restraining Order Project, the Calgary Legal Guidance Restraining Order Program, or elsewhere in Alberta, your nearest Legal Aid Office. See page 6 for more information.

If you are the person affected by the Emergency Protection Order (the respondent), you may apply for legal assistance with the review by contacting your nearest Legal Aid Office. See page 6 for more information.

If you want to take part in the review without a lawyer, this booklet will help you.

This booklet outlines what both the claimant and the respondent must do when having the Emergency Protection Order reviewed by the Court of Queen's Bench. The respondent will be served with the Emergency Protection Order. A review gives both the claimant and the respondent an opportunity to make arguments for or against continuing the Order. It also gives the Court an opportunity to decide if changes should be made to the Order.

At the time of the review, the Court of Queen's Bench may:

- revoke or cancel the Emergency Protection Order;
- confirm the Emergency Protection Order;
- revoke the Emergency Protection Order, and replace it with a Queen's Bench Protection Order; or
- set the matter over for a hearing.

A review of an Emergency Protection Order is a very formal process that is designed to ensure fairness. It is important that you follow each step carefully and thoroughly.

What is a Queen's Bench Protection Order?

A Queen's Bench Protection Order is an order made by the court and enforced by the police. A Protection Order is a very powerful remedy and can say any of the following:

- the abusive family member must leave the home;
- the abusive family member cannot contact the victim or other family members and cannot go near their home, school, workplace, or other premises where the family members might be present;
- the police will take away guns, knives and other weapons from the abusive family member;
- the abusive family member and any other family member involved in the family violence must get counselling;
- the victim or the abusive family member can temporarily possess specific personal property;
- the victim or other family members can temporarily occupy the home;
- the abusive family member must reimburse the victim for any monetary losses suffered as a direct result of the family violence;
- the victim or the abusive family member cannot deal with property that both have an interest in;
- the police will accompany the victim to the home to supervise the removal of personal belongings;
- the abusive family member must post a bond to ensure that they will obey the Order; and
- any other protection that the judge considers appropriate.

This application is made under the *Protection Against Family Violence Act* - a law that helps **protect all family members from family violence**.

The *Act* defines a **family member** as:

- a man and a woman who are or have been married to one another or who are living or have lived together in an intimate relationship;

- persons who are the parents of one or more children, regardless of their marital status or whether they have lived together at any time;
- persons who live together and are related to one or more persons in the household by blood, marriage or adoption;
- any children in the care and custody of a person described above; or
- persons who live together where one of the persons has care and custody over the other under an order of the court.

The Act defines **family violence** as:

- injuring or threatening to injure a family member in order to intimidate or harm a family member;
- damaging or threatening to damage property in order to intimidate or harm a family member;
- not allowing a family member to leave the home; and
- sexual abuse.

You should know that if the Protection Order includes your children, you may need to deal with custody and/or access at some point in the future.

Please note: A Protection Order is an extraordinary remedy. You should speak to a lawyer to determine what evidence should be presented to the court, and the possible outcomes for your application.

If you decide to go ahead without a lawyer, you may need to consult other sources of information as you prepare your application. You can find the following documents at your local court house library, other libraries or at the listed websites:

- *Alberta Rules of Court* - www.gov.ab.ca/qp/rules.html
- *Family Law Practice Notes (attached to the Alberta Rules of Court)* - www.albertacourts.ab.ca/webpage/qb/qb_family_law_practice_notes.htm
- *Protection Against Family Violence Act* - www.gov.ab.ca/qp/acts.html
- *Victims of Family Violence Information and Rights booklet* - www.albertacourts.ab.ca (also available from the Family Law Information Centre or from the Office for the Prevention of Family Violence - see page 7 for more information)

Other Options for Seeking Protection If You are in a Family Violence Situation

If an Emergency Protection Order is **not** in place, then this booklet does not apply to you. There are other applications you can make to help protect you and your children from harm.

If you have been assaulted, or are in a family violence situation, call your local police or RCMP detachment or have a neighbour or friend call for you.

If the threat of danger is immediate, call 911 or your local police emergency number if you do not have 911 service.

If you are in a family violence situation where the threat of danger is immediate, the police can apply for an Emergency Protection Order to provide you with immediate protection.

One option is to apply for a **Restraining Order** if you have reason to believe your partner will cause you or your children serious harm. A Restraining Order is made by the court and enforced by the police and limits the contact your partner can have with you and your children. This application can only be made during normal court hours. If the situation is an emergency, the application can be made without giving notice to your partner. For more information on Restraining Orders, see the Court Procedure Booklet, *Applying for a Restraining Order Without Notice*. Please note: You can only use the *Applying for a Restraining Order Without Notice* booklet if you were legally married to, or have lived in a marriage-like relationship with, your partner.

Another option is to apply for a **peace bond**. If the other party has not been charged with an offence, but you are frightened for your safety, or you fear harm to your children or property, you may be able to apply for a peace bond. A peace bond is issued under section 810 of the Criminal Code and is a Court Order that requires the other party to keep the peace and obey any other conditions the court decides are necessary. You do not need a lawyer to obtain a peace bond. To obtain a peace bond, first report the incident to your local police or RCMP detachment and tell them why you are worried about your safety (get a file number from the police). Next, go to your local criminal court to arrange an appearance before a Provincial Court Judge or an appointment with a presiding Justice of the Peace.

Other Resources for Information and Assistance

You may also apply for a **Queen's Bench Protection Order** without first obtaining an Emergency Protection Order. You must provide the abusive family member with notice of the application, and the application can only be heard by the court during normal business hours. For more information on Queen's Bench Protection Orders, See the Court Procedure Booklet, *Applying for a Protection Order On Notice*.

There are other organizations and programs that you can turn to for information and assistance when deciding on or making an application.

Legal Aid

Legal Aid,
300 Revillon Building,
10320 - 102 Avenue,
Edmonton, Alberta,
phone: (780) 427-7575

Legal Aid,
Dominion Centre, Suite 1100
665 - 8th Street, S.W.
Calgary, Alberta
phone: (403) 297-2260

For Legal Aid Offices in other areas, call toll free from anywhere in Alberta by calling 310-0000

Programs

Protection and Restraining Order Project (PROP)
#205, 10010 - 107A Avenue
Edmonton, Alberta, T5K 4H8
Phone: 780-423-8920
Fax: 780-425-1699

Calgary Legal Guidance Restraining Order Program
100, Rocky Mountain Plaza
615 Macleod Tr., S.E.
Calgary, Alberta, T2G 4T8
Phone: 403-716-6484
Fax: 403-234-9299

Community resources

For more information about other services that can assist in family violence situations, contact the following:

- Your local police, RCMP detachment, shelter or victim's services unit. They can help you get more information about other services in your community.

- The Office for the Prevention of Family Violence. This office has information about family violence and the *Protection Against Family Violence Act*. It also has materials in many languages. Call toll free from anywhere in Alberta at 310-0000 and ask for 422-5916.
- The Community Service Referral Line can refer you to other helping resources. Call 780-482-INFO(4636) in Edmonton or 403-268-INFO(4636) in Calgary.
- Look in the Human Services Guide of the phone directory under Crisis/Distress Lines (24 hours), Family Violence, and/or Shelters.

Restraining Order Registries

The Chief of Police
Edmonton Police Service
9620 - 103A Avenue
Edmonton, Alberta, T5H 0H7
Attention: Case Management
Unit

The Chief of Police
Calgary Police Service
133 - 6th Avenue, SE
Calgary, Alberta, T5H 0H7
Attention: Case Management
Unit

If outside of Edmonton or Calgary, you will need to contact the local police or RCMP detachment in your area - consult the phone directory.

Step 1: Prepare the Affidavit

Note to claimant: Although the Judge will have a transcript of the evidence presented by you or the police officer at the time the Emergency Protection Order was granted, it is important that you provide your own evidence at the review.

1-1 Prepare the Affidavit

Complete the Affidavit. A sample begins on page 21 if you are the claimant, and on page 33 if you are the respondent.

Please note that the address you are asked to give is an address where you may be served documents, and is not necessarily your residence. Keep in mind that the other party will receive this address when they receive a copy of this Affidavit - see step 3.

The Affidavit is the only evidence that the judge will accept (other than the transcript of the Emergency Protection Order hearing). It is important to include everything you need to prove your case and everything you want the judge to know. The **only facts** you can discuss in court are those that are included in your Affidavit, the transcript and in the other party's Affidavit on the court file.

The facts that you include in your Affidavit must be complete, accurate and relevant to the application before the court. There are **serious consequences** if you do not tell the truth. Remember that the other party or their lawyer can cross-examine or ask you questions on anything you include.

Remember that the Affidavit will be read by the judge. Make sure it is readable and understandable.

If you refer to other documents in the Affidavit, identify each document as an "Exhibit" and letter each one consecutively (Exhibit "A", Exhibit "B", and so on). Then attach one copy of each exhibit, in alphabetical order, to the Affidavit. Label each exhibit clearly as Exhibit "A", Exhibit "B", and so on.

Step 2: File the Affidavit

1-2 Declare the truth of your Affidavit before a Commissioner for Oaths

You must swear or affirm before a commissioner for oaths that the contents of your Affidavit are true. You may be asked to show personal identification.

A Chambers Clerk may act as a commissioner for oaths. The commissioner for oaths will check to make sure that each exhibit mentioned in the Affidavit is attached to the Affidavit. Each exhibit will have to be stamped with an exhibit stamp. The commissioner for oaths has the stamp. The stamp must be filled in for each exhibit. It is the commissioner for oaths who must sign each completed stamp.

Whenever you photocopy your Affidavit, you must photocopy all of the exhibits as well.

2-1 Make copies of your Affidavit

In order to proceed with your application you will need multiple copies of the Affidavit that you have already completed. Make four copies of the Affidavit and all exhibits (total of five with the original).

Take the originals and the copies of the documents to the Chambers Office for filing. The address for the Chambers Office in each judicial district is on the inside back cover of this booklet. In smaller centres, the Chambers Office may not be a separate section, but would be part of the Queen's Bench Clerk's Office.

2-2 File the Affidavit

The Chambers Clerk will file your Affidavit and return four copies to you. You will be provided with an action number (a number assigned to your court file). Write the action number on the backer of all copies of your Affidavit.

Step 3: Serve the Affidavit on the Other Party

3-1 Serve the Other Party

The *Alberta Rules of Court* contains specific rules to guarantee that the other party has been notified of a court action, application, or any resulting court orders. These rules refer to the “serving” of documents on the other party. You may want to refer to *Rules 13 to 26 and 578.1* of the *Alberta Rules of Court* for the procedure for service of court documents.

The other party must be personally served with a filed copy of the Affidavit at least 24 hours before the date and time scheduled for the review. **Do not serve the other party yourself.** Have the documents served by a process server - someone who will know how to handle a volatile situation. You can find a list of process servers in the yellow pages. You must provide the process server with two filed copies of the Affidavit.

The process server should provide you with an Affidavit of Service. The Affidavit of Service explains how and when the other party received a copy of the Affidavit.

3-2 Copy the Affidavit of Service

Make one copy of the complete Affidavit of Service. The complete Affidavit consists of the Affidavit of Service with the copy of your Affidavit attached as an exhibit.

3-3 File the Affidavit of Service

File the original and the copy of the Affidavit of Service with the Chambers Office. They will return a filed copy to you.

Please note: Because of the short time between the granting of the Emergency Protection Order and the review date, it may be impossible for you to have the Affidavit served, or to have an Affidavit of Service prepared.

If you are not able to serve the other party before the review date, you may have a neutral third party give the other party a filed copy of the Affidavit in court before the review begins.

If the process server is not able to prepare an Affidavit of Service in time, have the process server attend court with you to tell the judge how and when the other party was served with the Affidavit.

Step 4: Prepare an Order

If you are the claimant, you must complete the Protection Order. You will find an example of a Protection Order that begins on page 41.

You must fill in your name in full, then the respondent's name in full on the front and on the backer of the sample Order. Also, fill in the action number, your name, address for service and contact phone number on the backer. Please note that the address you are asked to give is an address where you may be served documents, and is not necessarily your residence. Also, the contact phone number may be important in case of a breach of the Protection Order (see step 9)

Do not check off or complete the terms or conditions of the Protection Order. It is up to the judge what the Protection Order will say. The judge will complete this information if your Order is granted.

Step 5: Going to Court

5-1 Prepare for court

Before going to court you should read "Points to Remember When Representing Yourself in Court" on page 13.

You will need to take the following things with you to court:

- a pen and paper;
- your copy of the filed Affidavit of Service which includes your Affidavit, if you have it;
- two copies of your Affidavit;
- your form of Order.

5-2 Attend court

Find your court room number by checking the Chambers lists which are posted in the court house. You can also check with a clerk. Make sure you have the correct court room number. There may be more than one court room in the building hearing family matters at the same time.

Your application will be assigned a number on the Chambers list. This number or your name will be called when it is time for your application to be heard.

Other matters will be scheduled in court at the same time as your own. You will have to wait until you (or your number) are called. Difficult or long applications may have to wait until others are dealt with or may be moved to another date and time.

When your matter is called, stand up and go up to the front of the court room. Hand one copy of your Affidavit to the clerk in court when you start your application. The clerk will hand it to the judge.

You and the other party will be asked to present your case to the judge. The only facts that you can discuss in court are those that are included in your Affidavit, the transcript from the Emergency Protection Order hearing or the other party's Affidavit on the court file. You should be prepared to answer any questions the judge may have.

If the judge grants a Queen's Bench Protection Order, the claimant should hand their form of Order to the clerk, who will hand it to the judge. The judge will fill in any blanks in the Order, sign it, and hand it back to the claimant.

The judge may not sign the Protection Order that was prepared but may grant a different Protection Order. For example, the judge may confirm the existing Emergency Protection Order. In this case, the claimant will still have to prepare a written Protection Order. You may be able to obtain other sample Orders from where you received this booklet, or on the Internet at www.albertacourts.ca. After the Order is prepared, go on to step 6 and follow the same instructions as you would have if the judge had signed the prepared Protection Order. Continue to follow the remaining steps in this booklet.

Points to Remember When Representing Yourself in Court

The court house is a very traditional place. When you are representing yourself it is up to you to persuade the judge that your position is right. For this reason you must act, dress and speak in a way which helps and does not distract from your case. Here are some tips:

1. When you come to court, dress in clothes that are clean, neat and in good repair. You should be clean and neatly groomed.
2. How you act is as important as how you look. Be respectful to everyone in the court house, which includes the judges, court staff, lawyers, the other party involved in your case and security officers.
3. The court has a very busy schedule. Be on time for any application, case management meeting, pre-trial conference, or trial, or there may be consequences. For example, if you are late for an application, your application may be dismissed if you are the applicant or, if you are the respondent, the court may proceed without you.
4. The judge will not speak to you about your case except during a scheduled application, case management meeting, pre-trial conference or trial, and when the other party or lawyer is present.
5. Wait until you are addressed by the judge before talking, otherwise the judge will not respond.
6. Staff in the Clerk's Office cannot give you legal advice or recommendations on what you should do. Always be polite to court house staff and provide them with any information or materials that are requested.
7. When you represent yourself it is very important that you take all necessary materials to support your application. You may be able to get legal advice from a lawyer ahead of time to make sure you are proceeding correctly and have all the right materials in their required form. Some lawyers will provide assistance with the preparation of these documents.
8. When you are attending a chambers application and the case is called, come forward to the counsel table at the front of the court room and tell the judge who you are. Always stand when you are addressing the judge. Refer to male judges as "My Lord" and female judges as "My Lady." Speak slowly in a clear voice with sufficient volume.
9. Be respectful to the judge, any counsel and the other party. Do not speak out of turn. Outbursts, inappropriate language and displays of temper will not be tolerated and could well influence the outcome of your application.

Step 6: File the Protection Order

If the judge signed a Protection Order, make four copies of your signed Order (total of five with the original). Take the original and copies of the Order to the Chambers Clerk for filing. Four copies will be returned to you - two certified copies and two filed copies. Note that if you have to serve the respondent with the Order, one certified copy must be set aside to be attached to the Affidavit of Service. (See Step 7). The other certified copy will be given to the police. (See Step 8). The certified copies can be identified by the embossed (raised) court seal.

Unless the judge orders otherwise, if the respondent was in court when the Protection Order was granted, you do not need to serve the respondent with a copy of the order - you can skip step 7 and go directly to step 8. If the judge orders that the respondent be served, you must follow step 7.

If the respondent was not in court when the Protection Order was granted, then you must follow step 7 - you must serve the respondent with a copy of the Order and file the Affidavit of Service.

Step 7: If the Respondent Was Not in Court - Serve the Order and File an Affidavit of Service

7-1 If the respondent was not in court, serve the respondent

If the respondent was not in court when the Order was signed by the judge, they must be personally served with a filed copy of the Order. The Order must be handed to the respondent. **Do not serve the respondent yourself.** Have the Order served by a process server - someone who will know how to handle a volatile situation. You can find a list of process servers in the yellow pages.

You must provide the process server with one certified and one filed copy of the Protection Order. The certified copy must not be served, but will be attached to the Affidavit of Service.

The process server should provide you with an Affidavit of Service. The Affidavit of Service explains how and when the respondent received a copy of the Order.

7-2 Copy the Affidavit of Service

Make two copies of the complete Affidavit of Service. The complete Affidavit consists of the Affidavit of Service with the certified copy of the Order attached as an exhibit.

7-3 File the Affidavit of Service

File the original and the copies of the Affidavit of Service with the Chambers Office. They will return two filed copies to you.

It is important that the Protection Order, or an Order revoking the Emergency Protection Order be properly registered with the police. This ensures that the police have an accurate record of the current Order on their computer system, and are able to act quickly if the Order is breached or disobeyed.

Step 8: Give the Protection Order to the Police

8-1 The claimant must complete the Statement of Description

If you are the claimant, you must provide the police with a complete and accurate description of the respondent. Fill in the Statement of Description and attach a photo of the respondent, if you have one. A sample begins on page 53.

If you are the respondent, you do not have to provide a description of the claimant.

8-2 Register with the police

Take your remaining certified copy of the Protection Order, a filed copy of the Affidavit of Service (if one was prepared in step 7), and the Statement of Description to your local police headquarters or R.C.M.P. detachment. The police may have a specific Restraining or Protection Order Registry. See the Restraining Order Registry information on page 57. If you reside outside of Edmonton or Calgary, you will need to contact the local police or R.C.M.P. detachment in your area.

You should still have one filed copy of the Protection Order or one filed copy of the Affidavit of Service (which will have one filed copy of the Protection Order attached). Keep it in your possession at all times while the Order is in effect.

The police may want to see it if the Order is breached or disobeyed in the future. (See step 9)

Step 9: (Claimant Only)

If the Respondent Breaches the Order

If the respondent breaches or disobeys the Protection Order, call the police or RCMP.

If the respondent is arrested as a result of disobeying the Protection Order, you will be contacted at the telephone number provided on the backer of the Protection Order. You may be required to appear in court to give evidence of the breach. A judge will decide what penalty the respondent will face.

If you are the claimant, you should not contact the respondent or allow the respondent back into your home while the Protection Order is in effect. The Protection Order is directed towards the respondent, so it is not revoked if you do contact the respondent. However, these circumstances make it difficult to enforce the Protection Order. And, it may make it harder to obtain a Protection Order in the future, especially if no further acts of family violence occur during this contact.

Terminating or Extending the Protection Order

A Protection Order can be in force for up to one year and may be extended for further one-year periods.

You will have to make a further court application if:

- you no longer want or need the Protection Order to be in effect,
- you want to have the Protection Order continue for a longer period,
- you want to change what the Protection Order says, or
- you move and want the respondent to continue to be restrained from going to your new home.

You should see a lawyer because that procedure is different from the procedure in this booklet.

Appendix 1: Sample Court Documents

What forms are included

The following forms are contained in this booklet:

- Affidavit to be used by Claimant (pages 21 - 31)
- Affidavit to be used by Respondent (pages 33 - 39)
- Protection Order [pages 41 - 51]
- Statement of Description (pages 53 - 55)
- Restraining Order Registry [pages 57 - 59]

General Instructions for Completing Court Documents

- These forms have been developed for typical users. If your document is more complicated or requires more space for writing, then you will have to re-type the form.
- All documents must be readable.
- Photocopy the forms you need from the booklet and work on the photocopies as your "rough copy". You should read the form carefully before beginning to fill it out.
- Fill in all the blank lines with requested information, by either hand printing or typing (except where signatures are required).
- Note that there is a style of cause (see Explanation of Legal Terms) at the top of the first page and on the backer of each court document. Make sure that the style of cause on the first page is filled out in the same way as the one on the backer.
- The backer is the last sheet of the court document. Fill in the backer with the requested information, making sure to include your court action number. The backer should be reversed so that the type faces out and is visible once the whole document is stapled together.

How to delete information from a document

- You must make sure every statement in your Affidavit is true. If there are paragraphs that do not apply to you or are not correct, you should cross them off.
- To cross off paragraphs, draw a straight horizontal line, in ink, through both the first and last lines of the paragraph, then draw a straight diagonal line joining these lines and forming a letter "Z."
- To cross off a single sentence, draw a horizontal line, in ink, through the middle of the sentence.
- Use a ruler to make your lines and initial any changes that you have made. **Make sure you put your initials at the beginning and at the end of every strikeout that you make.**
- You cannot use "white out" on any court documents. Any corrections or deletions must be neat and readable.

Affidavit of Claimant

The claimant is to use this form to give the evidence that the claimant wants the court to hear at the review.

Before filing your Affidavit, make sure that:

- ☐ you include **all** of the facts that you want to discuss in court
- ☐ your facts are complete, true and relevant
- ☐ in the Affidavit you identify each document you refer to as an "Exhibit" and letter each one consecutively (Exhibit "A", Exhibit "B" and so on). Then label each exhibit in the order in which they appear in the Affidavit. Attach them in the same order at the end of the Affidavit just before the backer.
- ☐ you swear before a commissioner for oaths that the facts in your Affidavit are true
- ☐ you make four copies of your Affidavit (total of five with the original)

You will need to write the action number on the backer of all copies of your Affidavit once provided to you by the clerk.

Use a ruler if you need to cross off any paragraphs. Cross any paragraphs out by drawing a straight line through the first and last lines and a diagonal line joining them to form a "Z." Make sure that you put your initials at the beginning and at the end of every strikeout that you make. **You cannot use "white out".**

Note: You cannot make any changes to your Affidavit once it has been sworn.

In the Court of Queen's Bench of Alberta
in the Judicial District of _____

BETWEEN:

YOUR NAME

Claimant

AND

RESPONDENT'S NAME

Respondent

Affidavit of Claimant

1. I am the Claimant herein and as such have a personal knowledge of the following information, except where stated to be based on information and belief in which case I do believe it to be true.

Relationship between Claimant and Respondent

2. Choose one:

- ☐ I am married to the Respondent
- ☐ I was married to the Respondent
- ☐ I am living common-law with the Respondent
- ☐ I have lived common-law with the Respondent
- ☐ The Respondent and I have one or more children together
- ☐ I live with the Respondent and one of us is related to one or more persons in the household by blood, marriage or adoption, as follows:

- ☐ other (describe your relationship with the Respondent):

Information about your children

3. We have the following children: (names, birth dates (mo/dd/yy))

- i) _____, born _____
- ii) _____, born _____
- iii) _____, born _____
- iv) _____, born _____

4. ☐ The children live with me.
OR
☐ The following children live with me: (*give names of children*)

History of Legal Proceedings

5. There have been previous legal proceedings between the Respondent and I of a family violence nature, as follows: *(provide details - court dates, action numbers, and whether any Order was granted)*

Year / mo. / day Action number Order granted:
☐ Y ☐ N

Year / mo. / day Action number Order granted:
☐ Y ☐ N

Year / mo. / day Action number Order granted:
☐ Y ☐ N

Reasons for Asking for a Protection Order

- 6.** I need a Protection Order against the Respondent for the following reasons:

(give details of the family violence, including the dates the family violence took place, and the nature and history of the family violence - starting with the most recent occurrence. Also state whether any weapons were involved, and if so, the type of weapon(s))

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

7. I am asking the Court for a Protection Order that includes the following conditions:

Check off and complete what you want the Protection Order to say:

- ☐ The Respondent is specifically restrained from being within 1000 metres of the Claimant's residence or place of employment in _____, Alberta, or from being within 200 metres of the
NAME OF CITY, TOWN, ETC.
Claimant anywhere else in the Province of Alberta.
- ☐ The Respondent is specifically restrained from harassing, molesting, telephoning, writing or otherwise interfering with or contacting the Claimant, the Claimant's family members, employer/employees, co-workers, or specified persons _____

either directly or indirectly, and either personally or by agent, anywhere in the Province of Alberta. The Respondent is further restrained from subjecting the Claimant to family violence.
- ☐ The Claimant is granted exclusive occupation of the following residence for the designated time:

- ☐ The Respondent shall reimburse the Claimant in the amount of \$_____ for monetary losses for the following expenses: _____
- ☐ The Claimant/Respondent _____ is granted temporary
NAME
possession of _____
SPECIFIC PERSONAL PROPERTY
- ☐ The Claimant/Respondent _____ may take, convert, damage
NAME
or otherwise deal with _____
SPECIFIC PROPERTY
- ☐ A peace officer shall remove the Respondent from the following residence within the designated time:

- ☐ A peace officer shall accompany the person designated below to the residence within the time designated below to supervise the removal of personal belongings: _____

- ☐ The Respondent shall post the following bond: _____
- ☐ The Respondent and _____ shall attend the following counselling:
NAME

- ☐ A peace officer shall remove and store the following weapons: _____

Sworn before me at the _____ of _____)
_____, in the Province of Alberta,)
this _____ day of _____, _____.)

YOUR SIGNATURE

A COMMISSIONER FOR OATHS IN
AND FOR THE PROVINCE OF ALBERTA

Action No: _____
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
IN THE JUDICIAL DISTRICT OF

BETWEEN:

YOUR NAME Claimant

- and -

RESPONDENT'S NAME Respondent

AFFIDAVIT OF CLAIMANT

YOUR NAME

YOUR ADDRESS

YOUR PHONE NUMBER

Affidavit of Respondent

The respondent is to use this form to give the evidence that the respondent wants the court to hear at the review.

Before filing your Affidavit, make sure that:

- ☐ you include **all** of the facts that you want to discuss in court
- ☐ your facts are complete, true and relevant
- ☐ in the Affidavit you identify each document you refer to as an "Exhibit" and letter each one consecutively (Exhibit "A", Exhibit "B" and so on). Then label each exhibit in the order in which they appear in the Affidavit. Attach them in the same order at the end of the Affidavit just before the backer.
- ☐ you swear before a commissioner for oaths that the facts in your Affidavit are true
- ☐ you make four copies of your Affidavit (total of five with the original)

You will need to write the action number on the backer of all copies of your Affidavit once provided to you by the clerk.

Use a ruler if you need to cross off any paragraphs. Cross any paragraphs out by drawing a straight line through the first and last lines and a diagonal line joining them to form a "Z." Make sure that you put your initials at the beginning and at the end of every strikeout that you make. **You cannot use "white out".**

Note: You cannot make any changes to your Affidavit once it has been sworn.

In the Court of Queen's Bench of Alberta
in the Judicial District of _____

BETWEEN:

CLAIMANT'S NAME

Claimant

AND

YOUR NAME _____

Respondent

Affidavit of Respondent

1. I am the Respondent herein and as such have a personal knowledge of the following information, except where stated to be based on information and belief in which case I do believe it to be true.
2. ☐ I have read the Emergency Protection Order granted against me on the _____ (date).

-and/or-

- ☐ I have read the Affidavit of the Claimant dated _____.

-and/or-

- ☐ I have read the transcript of the hearing for the Emergency Protection Order.

- 3.** In response I would like the court to know the following:

[illegible]

Action No: _____
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
IN THE JUDICIAL DISTRICT OF

BETWEEN:

CLAIMANT'S NAME _____ Claimant

- and -

YOUR NAME _____ Respondent

AFFIDAVIT OF RESPONDENT

YOUR NAME

YOUR ADDRESS

YOUR PHONE NUMBER

Queen's Bench Protection Order

Use this form if the judge replaces the Emergency Protection Order with a Queen's Bench Protection Order.

Before going to court, make sure that:

- ☐ your full name and the respondent's full name are included in the form and on the backer
- ☐ fill in the date of the Emergency Protection Order in the first paragraph of the Order
- ☐ you have NOT checked off or completed the terms of the Order. The judge will complete this information if the Order is granted.
- ☐ the address where you wish to be served and your contact phone number are included on the backer
- ☐ the Order states whether the respondent appeared in court or not - by crossing off the paragraph that does not apply (found before the terms of the Order). Make sure this is done before you hand the Order to the clerk in court (for the judge's signature).
- ☐ you DO NOT make any changes to the Order after the judge has signed it
- ☐ you make four copies of your signed Order

Remember that the judge may not accept orders that contain crossed out sections.

In the Court of Queen's Bench of Alberta
in the Judicial District of _____

BETWEEN:

YOUR NAME

Claimant

AND

OTHER PARTY'S NAME

Respondent

BEFORE THE HONOURABLE MADAM/MR.) On _____ day,
JUSTICE _____) the _____ day of
IN CHAMBERS _____) _____, 2____.
_____, ALBERTA)

Queen's Bench Protection Order

UPON IT APPEARING that the Emergency Protection Order granted pursuant to Section 2 of the Protection Against Family Violence Act on the _____ day of _____, _____ came before this Honourable Court for review today; AND UPON the Respondent having been served with notice of this review as indicated on the Affidavit of Service, filed;

☐ And Upon the Respondent appearing;

-OR-

☐ And Upon the Respondent not appearing in person or by agent;

IT IS HEREBY ORDERED THAT:

1. A copy of this Order shall forthwith be personally served upon the Respondent, _____.
FULL NAME

-OR-

1. This Order need not be served upon the Respondent.

2. The Emergency Protection Order granted on the _____ day of _____, _____, is hereby replaced by the within Queen's Bench Protection Order.
3. The Respondent is specifically restrained from being within 1000 metres of the Claimant's residence or place of employment in _____, Alberta, or from being within 200 meters of the Claimant anywhere else in the Province of Alberta.
4. The Respondent is specifically restrained from harassing, molesting, telephoning, writing or otherwise interfering with or contacting the Claimant, the Claimant's family members, employer/employees, co-workers or specified persons: _____, either directly or indirectly, and either personally or by agent, anywhere in the Province of Alberta. The Respondent is further restrained from subjecting the Claimant to family violence.
5. On the Respondent being in breach of any of the terms of the within Order, then in such event, any peace officer is authorized to forthwith arrest the Respondent, detain and bring the Respondent, at the earliest possible time, before a Justice of the Court of Queen's Bench of Alberta to show cause why there should not be a committal for civil contempt, provided that the Respondent shall not be arrested unless the Respondent has been previously served with a copy of this Order, or if not served, is shown a copy of this Order by the peace officer and, on being given an opportunity to do so, does not thereafter obey it. This Order is sufficient authority for the keeper of a correctional institution to receive the said Respondent into custody and to safely keep the Respondent pending appearance before a Justice of the Court of Queen's Bench of Alberta. Nothing in this clause shall limit the right of a peace officer to proceed with the laying of a charge under section 127 of the Criminal Code of Canada.
6. In making an arrest as aforesaid, a peace officer is authorized to do all such acts as may be necessary to carry out the arrest and, for such purposes, the peace officer is hereby given full power and authority to use as much force as may be necessary to effect the arrest, and without warrant to enter upon the following lands and premises to effect the arrest:

_____.

- ☐ _____. The Claimant is granted exclusive occupation of the following residence for the designated time: _____.
- ☐ _____. The Respondent shall reimburse the Claimant in the amount of \$_____ for monetary losses for the following expenses: _____.
- ☐ _____. The Claimant/Respondent, _____ is granted temporary possession of: _____.
- SPECIFIC PERSONAL PROPERTY
- ☐ _____. The Claimant/Respondent, _____ may not take, convert, damage or otherwise deal with: _____.
- SPECIFIC PROPERTY
- ☐ _____. A peace officer shall remove the Respondent from the following residence within the designated time: _____.
- ☐ _____. A peace officer shall accompany the person designated below to the residence within the time designated below to supervise the removal of personal belongings: _____.
- ☐ _____. The Respondent shall post the following bond: _____.
- ☐ _____. The Respondent and _____ shall attend the following counselling: _____.

☐ _____. A peace officer shall remove and store the following weapons:

_____.

☐ _____. (Other conditions):

_____. This Order remains in force and effect up to and including:

_____. However, it shall cease to have any force and effect upon this action being discontinued or upon the trial of this matter unless expressly continued by order of this Court.

_____. Notwithstanding other provisions in this Order either party may apply to vary, amend, strike out the within Order upon _____ clear days notice to the other party.

JUSTICE OF THE COURT OF QUEEN'S
BENCH OF ALBERTA

ENTERED THIS _____ DAY OF,

_____, _____

CLERK OF THE COURT

Action No: _____
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA IN THE
JUDICIAL DISTRICT OF

BETWEEN:

YOUR NAME Claimant

- and -

RESPONDENT'S NAME Respondent

**QUEEN'S BENCH
PROTECTION ORDER**

YOUR NAME

YOUR ADDRESS FOR SERVICE

YOUR PHONE NUMBER

Statement of Description

Use this form to provide the police with a description of the respondent.

Before giving the police this Statement, make sure that:

- ☐ your description of the respondent is complete and accurate
- ☐ you attach a copy of a photo of the respondent

BETWEEN:

Your name

Claimant

-AND-

Respondent's name

Respondent

STATEMENT OF DESCRIPTION

WEAPONS WARNING: The Claimant believes that the Respondent may have the following weapons: _____
(describe weapon - gun, knife or state "none.")

The following is a description of the above-named Respondent:

FULL SURNAME AND GIVEN NAMES: _____

DATE OF BIRTH: _____

SEX: MALE ☐ FEMALE ☐

ALIASES: _____

ADDRESS OF RESIDENCE AND PHONE NUMBER: _____

EMPLOYER OR SCHOOL NAME, ADDRESS AND PHONE NUMBER: _____

RACE: _____

HEIGHT AND WEIGHT: _____

BUILD: _____

EYE COLOUR AND DEFECTS: _____

HAIR COLOUR, LENGTH AND TYPE: _____

FACIAL HAIR AND COLOUR: _____

COMPLEXION: _____

MARKS, SCARS, AMPUTATION AND DEFORMITIES: _____

TEETH AND SPEECH: _____

PHOTOGRAPH ATTACHED: YES ☐ NO ☐

ADDITIONAL INFORMATION: _____

Restraining Order Registry

This page details all of the information that you must provide to the Registry. Edmonton and Calgary each have a Restraining Order Registry. If you live outside of Edmonton and Calgary, contact the local police or R.C.M.P. detachment in your area.

Make sure that your correspondence with the Registry includes:

- ☐ a certified copy of the Order and a filed copy of the Affidavit of Service
- ☐ the Statement of Description of the respondent on page 53
- ☐ your address and any other location that you want the respondent kept away from
- ☐ a declaration that you will file any changes or extensions to the Order with the court

RESTRAINING ORDER REGISTRY

The Edmonton Police Service and the Calgary Police Service have a program to file copies of Restraining Orders or Protection Orders and provide police officers access to Restraining Order and Protection Order information through the Canadian Police Information Centre (CPIC).

Correspondence requesting to have a Restraining Order or Protection Order included in the registry may be directed to:

The Chief of Police
Edmonton Police Service
9620 - 103A Avenue
Edmonton, Alberta, T5H 0H7
Attention: Case Management Unit

The Chief of Police
Calgary Police Service
133 - 6th Avenue, SE
Calgary, Alberta, T5H 0H7
Attention: Case Management Unit

The correspondence must include:

- A. a certified copy of the Order which is valid on its face and contains;
 - a clearly stated set of conditions or terms to be met by the respondent,
 - specific authority and direction given to a police officer, - an expressly stated expiry date (if the Order does not specify an expiry or term in which it is valid, we will assign a one (1) year term to comply with computer system retention and purge criteria),
 - proof the respondent is aware of the Order, either through a clause indicating consent or the attachment of a properly completed and sworn Affidavit of Service
- B. a complete and accurate description of the respondent in the following format;
 - full name and given names
 - date of birth
 - sex
 - any aliases
 - residence address and phone
 - employer or school name, address and phone
 - apparent race (based on physical appearance)
 - height and weight
 - eye colour and defects
 - hair colour, length and type
 - marks, scars, amputations and deformities
 - facial hair and colour
 - description of complexion, build, teeth and speech where it would serve to identify the person
 - a photograph of the respondent may be forwarded in addition
- C. the residence address of the claimant and the address of any other location at which it is anticipated a breach may occur
- D. an understanding that any variations, amendments or extensions to the Order will be brought to our attention immediately after being filed with the court.

Calgary
511 - 4th Street SW
Tel: 403-297-2465

Medicine Hat
400 5th Street SE
Tel: 403-339-8710

Drumheller
511 - 3rd Ave. West
Tel: 403-823-1700

Family Law Information Centre Court Procedure Booklet #26

Edmonton
1A Sir Winston Churchill Sq.
Tel: 780-422-2412

Red Deer
400 - 4th Avenue
Tel: 403-340-7220

Fort McMurray
6700 Franklin Avenue
Tel: 780-763-7136

St. Paul
4704 - 25 Street
Tel: 780-343-8124

Grande Prairie
10240 - 99 Street
Tel: 780-536-1340

Wetaskiwin
4002 - 51 Street
Tel: 780-308-1212

Lethbridge
520 - 4th Street South
Tel: 403-331-5196

Review of an Emergency Protection Order

Assistance in Obtaining Legal Advice

Dial a Law - Lawyer Referral
Phone: 1-800-451-1005

Legal Aid
Edmonton: 780-427-7575
Calgary: 403-297-2260
Other areas call: 310-0000

Internet Sources of Information

Federal Justice Website: www.canada.justice.gc.ca
Alberta Government Website: www.gov.ab.ca
Alberta Justice Website: www.gov.ab.ca/jud
Alberta Courts Website: www.albertacourts.ab.ca

Review of an Emergency Protection Order

Queen's Bench Chambers Offices (or Clerk's Offices)

Calgary

611 - 4th Street SW

Tel: 403-297-7405

Medicine Hat

460 First Street SE

Tel: 403-529-8710

Drumheller

511- 3rd Ave. West

Tel: 403-823-1700

Peace River

9905 - 97 Avenue

Tel: 780-624-6256

Edmonton

1A Sir Winston Churchill Sq.

Tel: 780-422-2418

Red Deer

4909 - 48 Avenue

Tel: 403-340-5220

Fort McMurray

9700 Franklin Avenue

Tel: 780-743-7136

St. Paul

4704 - 50 Street

Tel: 780-645-6324

Grande Prairie

10260 - 99 Street

Tel: 780-538-5340

Wetaskiwin

4605 - 51 Street

Tel: 780-361-1258

Lethbridge

320 - 4th Street South

Tel: 403-381-5196

Assistance in Obtaining Legal Advice

Dial a Law - Lawyer Referral

Phone: 1-800-661-1095

Legal Aid

Edmonton: 780 - 427 - 7575

Calgary: 403 - 297 - 2260

Other areas call 310-0000

Internet Sources of Information

Federal Justice Website:

www.canada.justice.gc.ca

Alberta Government Website:

www.gov.ab.ca

Alberta Justice Website:

www.gov.ab.ca/just

Alberta Courts Website:

www.albertacourts.ab.ca

